



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,767	08/19/2003	Edward W. Johann	87359.1980	3008

7590 09/10/2004
BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
WASHINGTON, DC 20036

EXAMINER

LUEBKE, RENEE S

ART UNIT	PAPER NUMBER
----------	--------------

2833

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,767

Applicant(s)

JOHANN

Examiner

Renee S. Luebke

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9, 11-13, 15, 18-21 and 23 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 10, 14, 16, 17 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2833

1. The substitute drawing sheet filed July 2, 2004 is acceptable. However, the drawings remain objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the contoured bar of claim 7, the means for gripping the latching mechanism (claim 12), means for impeding heat transfer between the combustion device and the latching means (claim 14), and means for insulating the electrical connection from the latching mechanism (claim 15) must be shown or the features canceled from the claims. No new matter should be entered.

Contrary to applicant's comments, the insulations shown 19, 29 do not perform the insulation functions described in these claims and the handle 40 is not a means for gripping the latching mechanism 62.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The disclosure is objected to because the various insulations disclosed in claims 14 and 15, and the means for gripping the latching mechanism in claim 12 are not disclosed in the specification. It is unclear how these structures operate or where they are located. Appropriate corrections are required.

3. Claims 12, 14 and 15 are objected to because of the various insulations disclosed in claims 14 and 15, and the means for gripping the latching mechanism in claim 12 are not disclosed in the specification. It is unclear how these structures operate or where they are located. Appropriate corrections are required.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-3, 7, 11, 12, 18, 19 and 21 remain rejected under 35 U.S.C. 102(b) as being anticipated by Rowe. This device comprises a bar 34 that latches (by

Art Unit: 2833

means of structure 30, 37, 38, etc.) a door 14 in a closed position, a first connector 25, 26, and a handle 33. Contrary to applicant's remarks, the electrical connector 25, 26 is on or attached (by way of members 27, 14, etc.) to the bar 34. This connector further provides a connection between the bar and the appliance when the bar is in a latched position (fig. 3, for example).

6. Claims 4, 6, 9, 13, 15, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe. This device further comprises an attaching member 15 at one end of the bar and a second connector 20. It would have been obvious to use this arrangement with a combustion device, which also includes a door that must remain closed during operation. In regard to claims 6 and 15, the device of Rowe includes insulation 26.

Beyond alleging allowability based on their dependency, applicant has offered no comments concerning claims 4, 6, 9, 13 and 15.

In regard to claim 23, applicant argues that Rowe does not teach "a combination including a combustion device." However, this claim does not positively recite a combustion device and is not seen to claim a combination thereof. It merely recites that the bar be "configured to mount" on such a device. This is merely a recitation of the intended use of the claimed invention. As such, it must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, as in the present case, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

7. Claims 5, 8, 10, 14, 16, 17 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2833

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. It is suggested that responses to this final action be faxed to:
(703) 872-9306

Alternatively, responses may be mailed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (571) 272-2009. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (571) 272-2800, extension 33.



Renee S. Luebke
Primary Patent Examiner
September 8, 2004